

JS 44
(Rev. 07/89)

CIVIL COVER SHEET

The JS-44 civil cover sheet and the information contained herein neither replace nor supplement the filing and service of pleadings or other papers as required by law, except as provided by local rules of court. This form, approved by the Judicial Conference of the United States in September 1974, is required for the use of the Clerk of Court for the purpose of initiating the civil docket sheet. (SEE INSTRUCTIONS ON THE REVERSE OF THE FORM.)

I (a) PLAINTIFFS

John F.X. Fenerty
368 Wellington Terrace
Rockledge PA 19046

(b) COUNTY OF RESIDENCE OF FIRST LISTED PLAINTIFF Montgomery
(EXCEPT IN U.S. PLAINTIFF CASES)

DEFENDANTS

State Farm Mutual Automobile Insurance Company
incorrectly designated in Plaintiff's Complaint
as "State Farm Insurance Company"
One State Farm Drive
Bloomington, IL 61710-0001
COUNTY OF RESIDENCE OF FIRST LISTED DEFENDANT _____
(IN U.S. PLAINTIFF CASES ONLY)
NOTE: IN LAND CONDEMNATION CASES, USE THE LOCATION OF THE
TRACT OF LAND INVOLVED

(c) ATTORNEYS (FIRM NAME, ADDRESS, AND TELEPHONE NUMBER)

BARATTA & FENERTY
Anthony P. Baratta, Esquire (11870)
2661 Huntingdon Pike
Huntingdon Valley, PA 19006
215-947-4600

ATTORNEYS (IF KNOWN)

Joseph M. Hankins, Esquire (#20052)
BRITT HANKINS SCHAIBLE & MOUGHAN
Two Penn Center Plaza - Suite 515
15th & JFK Boulevard, Philadelphia PA 19102
215-569-6904

II. BASIS OF JURISDICTION

(PLACE AN X IN ONE BOX ONLY)

- ☐ 1 U.S. Government Plaintiff
- ☐ 2 U.S. Government Defendant
- ☐ 3 Federal Question (U.S. Government Not a Party)
- ☒ 4 Diversity (Indicate Citizenship of Parties in Item III)

III. CITIZENSHIP OF PRINCIPAL PARTIES

(For Diversity Cases Only)

(PLACE AN X IN ONE BOX FOR PLAINTIFF AND ONE BOX FOR DEFENDANT)

- | | PTF | DEF | | PTF | DEF |
|---|---------------------------------------|---------------------------------------|---|----------------------------|---------------------------------------|
| Citizen of This State | <input checked="" type="checkbox"/> 1 | <input type="checkbox"/> 1 | Incorporated or Principal Place of Business in This State | <input type="checkbox"/> 4 | <input type="checkbox"/> 4 |
| Citizen of Another State | <input type="checkbox"/> 2 | <input checked="" type="checkbox"/> 2 | Incorporated and Principal Place of Business in Another State | <input type="checkbox"/> 5 | <input checked="" type="checkbox"/> 5 |
| Citizen or Subject of a Foreign Country | <input type="checkbox"/> 3 | <input type="checkbox"/> 3 | Foreign Nation | <input type="checkbox"/> 6 | <input type="checkbox"/> 6 |

IV. CAUSE OF ACTION

(CITE THE U.S. CIVIL STATUTE UNDER WHICH YOU ARE FILING AND WRITE A BRIEF STATEMENT OF CAUSE.)

DO NOT CITE JURISDICTIONAL STATUTES UNLESS DIVERSITY)

28 U.S.C. §1332 (Diversity of Citizenship)

V. NATURE OF SUIT (PLACE AN X IN ONE BOX ONLY)

CONTRACT	TORTS		FORFEITURE/PENALTY	BANKRUPTCY	OTHER STATUTES
<input checked="" type="checkbox"/> 110 Insurance <input type="checkbox"/> 120 Marine <input type="checkbox"/> 130 Miller Act <input type="checkbox"/> 140 Negotiable Instrument <input type="checkbox"/> 150 Recovery of Overpayment & Enforcement of Judgment <input type="checkbox"/> 151 Medicare Act <input type="checkbox"/> 152 Recovery of Defaulted Student Loans (Excl. Veterans) <input type="checkbox"/> 153 Recovery of Overpayment of Veteran's Benefits <input type="checkbox"/> 160 Stockholders' Suits <input type="checkbox"/> 190 Other Contract <input type="checkbox"/> 195 Contract Product Liability	PERSONAL INJURY <input type="checkbox"/> 310 Airplane <input type="checkbox"/> 315 Airplane Product Liability <input type="checkbox"/> 320 Assault, Libel & Slander <input type="checkbox"/> 330 Federal Employers' Liability <input type="checkbox"/> 340 Marine <input type="checkbox"/> 345 Marine Product Liability <input type="checkbox"/> 350 Motor Vehicle <input type="checkbox"/> 355 Motor Vehicle Product Liability <input type="checkbox"/> 360 Other Personal Injury	PERSONAL INJURY <input type="checkbox"/> 362 Personal Injury—Med Malpractice <input type="checkbox"/> 365 Personal Injury—Product Liability <input type="checkbox"/> 368 Asbestos Personal Injury Product Liability PERSONAL PROPERTY <input type="checkbox"/> 370 Other Fraud <input type="checkbox"/> 371 Truth in Lending <input type="checkbox"/> 380 Other Personal Property Damage <input type="checkbox"/> 385 Property Damage Product Liability	<input type="checkbox"/> 610 Agriculture <input type="checkbox"/> 620 Other Food & Drug <input type="checkbox"/> 625 Drug Related Seizure of Property 21 USC 881 <input type="checkbox"/> 630 Liquor Laws <input type="checkbox"/> 640 R.R. & Truck <input type="checkbox"/> 650 Airline Regs <input type="checkbox"/> 660 Occupational Safety/Health <input type="checkbox"/> 690 Other LABOR <input type="checkbox"/> 710 Fair Labor Standards Act <input type="checkbox"/> 720 Labor/Mgmt. Relations <input type="checkbox"/> 730 Labor/Mgmt. Reporting & Disclosure Act <input type="checkbox"/> 740 Railway Labor Act <input type="checkbox"/> 790 Other Labor Litigation <input type="checkbox"/> 791 Empl. Ret. Inc. Security Act	<input type="checkbox"/> 422 Appeal 28 USC 158 <input type="checkbox"/> 423 Withdrawal 28 USC 157 PROPERTY RIGHTS <input type="checkbox"/> 820 Copyrights <input type="checkbox"/> 830 Patent <input type="checkbox"/> 840 Trademark SOCIAL SECURITY <input type="checkbox"/> 861 HIA (1395m) <input type="checkbox"/> 862 Black Lung (923) <input type="checkbox"/> 863 DIWC/DIWW (405(g)) <input type="checkbox"/> 864 SSID Title XVI <input type="checkbox"/> 865 RSI (405(g)) FEDERAL TAX SUITS <input type="checkbox"/> 870 Taxes (U.S. Plaintiff or Defendant) <input type="checkbox"/> 871 IRS—Third Party, 26 USC 7809	<input type="checkbox"/> 400 State Reapportionment <input type="checkbox"/> 410 Antitrust <input type="checkbox"/> 430 Banks and Banking <input type="checkbox"/> 450 Commerce/ICC Rates/etc. <input type="checkbox"/> 460 Deportation <input type="checkbox"/> 470 Racketeer Influenced and Corrupt Organizations <input type="checkbox"/> 810 Selective Service <input type="checkbox"/> 850 Securities/Commodities/Exchange <input type="checkbox"/> 875 Customer Challenge 12 USC 3410 <input type="checkbox"/> 891 Agricultural Acts <input type="checkbox"/> 892 Economic Stabilization Act <input type="checkbox"/> 893 Environmental Matters <input type="checkbox"/> 894 Energy Allocation Act <input type="checkbox"/> 895 Freedom of Information Act <input type="checkbox"/> 900 Appeal of Fee Determination Under Equal Access to Justice <input type="checkbox"/> 950 Constitutionality of State Statutes <input type="checkbox"/> 890 Other Statutory Actions
REAL PROPERTY <input type="checkbox"/> 210 Land Condemnation <input type="checkbox"/> 220 Foreclosure <input type="checkbox"/> 230 Rent Lease & Ejectment <input type="checkbox"/> 240 Torts to Land <input type="checkbox"/> 245 Tort Product Liability <input type="checkbox"/> 290 All Other Real Property	CIVIL RIGHTS <input type="checkbox"/> 441 Voting <input type="checkbox"/> 442 Employment <input type="checkbox"/> 443 Housing/Accommodations <input type="checkbox"/> 444 Welfare <input type="checkbox"/> 440 Other Civil Rights	PRISONER PETITIONS <input type="checkbox"/> 510 Motions to Vacate Sentence Habeas Corpus: <input type="checkbox"/> 530 General <input type="checkbox"/> 535 Death Penalty <input type="checkbox"/> 540 Mandamus & Other <input type="checkbox"/> 550 Other			

VI. ORIGIN

(PLACE AN X IN ONE BOX ONLY)

- ☐ 1 Original Proceeding
- ☒ 2 Removed from State Court
- ☐ 3 Remanded from Appellate Court
- ☐ 4 Reinstated or Reopened
- ☐ 5 Transferred from another district (specify)
- ☐ 6 Multidistrict Litigation
- ☐ 7 Appeal to District Judge from Magistrate Judgment

VII. REQUESTED IN COMPLAINT:

CHECK IF THIS IS A CLASS ACTION

DEMAND \$

Check YES only if demanded in complaint:

JURY DEMAND:

☐ YES ☒ NO

VIII. RELATED CASE(S) IF ANY

(See instructions):

JUDGE

DOCKET NUMBER

DATE

SIGNATURE OF ATTORNEY OF RECORD

Joseph M. Hankins, Esquire (#20052) Atty for Def.

IN THE UNITED STATES DISTRICT COURT
FOR THE EASTERN DISTRICT OF PENNSYLVANIA

CASE MANAGEMENT TRACK DESIGNATION FORM

John F.X. Fenerty

CIVIL ACTION

v.

State Farm Insurance Company

NO.

In accordance with the Civil Justice Expense and Delay Reduction Plan of this court, counsel for plaintiff shall complete a case Management Track Designation Form in all civil cases at the time of filing the complaint and serve a copy on all defendants. (See § 1:03 of the plan set forth on the reverse side of this form.) In the event that a defendant does not agree with the plaintiff regarding said designation, that defendant shall, with its first appearance, submit to the clerk of court and serve on the plaintiff and all other parties, a case management track designation form specifying the track to which that defendant believes the case should be assigned.

SELECT ONE OF THE FOLLOWING CASE MANAGEMENT TRACKS:

- (a) Habeas Corpus -- Cases brought under 28 U.S.C. §2241 through §2255. ()
- (b) Social Security -- Cases requesting review of a decision of the Secretary of Health and Human Services denying plaintiff Social Security Benefits. ()
- (c) Arbitration -- Cases required to be designated for arbitration under Local Civil Rule 53.2. ()
- (d) Asbestos -- Cases involving claims for personal injury or property damage from exposure to asbestos. ()
- (e) Special Management -- Cases that do not fall into tracks (a) through (d) that are commonly referred to as complex and that need special or intense management by the court. (See reverse side of this form for a detailed explanation of special management cases.) ()
- (f) Standard Management -- Cases that do not fall into any one of the other tracks. (X)

5/24/02
Date

Joseph M. Hankins, Esquire (20052)

Attorney-at-law

SD

**IN THE UNITED STATES COURT
FOR THE EASTERN DISTRICT OF PENNSYLVANIA**

JOHN F.X. FENERTY

v.

STATE FARM INSURANCE
COMPANY

Civil Action No: 02-cv-3217

NOTICE OF REMOVAL

**TO THE UNITED STATES DISTRICT COURT
FOR THE EASTERN DISTRICT OF PENNSYLVANIA:**

State Farm Mutual Automobile Insurance Company, (incorrectly designated in Plaintiff's Complaint as "State Farm Insurance Company") (hereinafter referred to as "State Farm"), hereby files the within Notice of Removal of this case from the Court of Common Pleas of Philadelphia County, Pennsylvania, in which it is now pending, to the United States District Court for the Eastern District of Pennsylvania. This Notice is filed pursuant to 28 U.S.C. § 1441, et seq., and in support thereof, defendant states the following:

1. This action was commenced in the Court of Common Pleas of Philadelphia County, Pennsylvania, by Writ of Summons and is docketed in the state court at February Term, 2002 at No. 2580. (See Exhibit "A", Writ of Summons filed February 19, 2002 and Plaintiff's Civil Complaint filed May 7, 2002).

2. Plaintiff, John F.X. Fenerty, Sr., is a citizen of the Commonwealth of Pennsylvania. See Exhibit "A", Plaintiff's Complaint at paragraph 1.

3. Defendant State Farm Mutual Automobile Insurance Company is a corporation that is duly incorporated, organized and existing under the laws of Illinois with its principal place of business located in Bloomington, Illinois. State Farm Mutual Automobile Insurance Company is a citizen of the State of Illinois.

4. The value of the matter in controversy exceeds the amount of \$75,000, exclusive of interest and costs. See Complaint, Exhibit "A-6" at Count II, *addendum* clause demanding \$1,000,000.).

5. The instant lawsuit is removable from State Court to the United States District Court for the Eastern District of Pennsylvania pursuant to 28 U.S.C. §1332(a)(1) and §1441(a).

6. Copies of all process, pleadings, and orders served upon or otherwise received by petitioner are attached as Exhibit "A".

7. A copy of the Plaintiff's Complaint was mailed to State Farm's attorneys and received May 6, 2002.

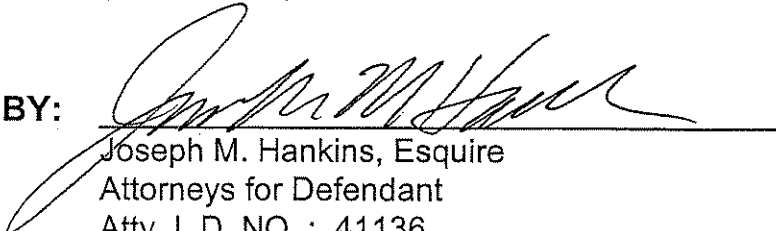
8. This Notice of Removal is timely, as it is being filed less than thirty (30) days, as that period is computed under the Federal Rules, after the filing and service of a copy of the complaint, the initial state court pleading setting forth a basis for federal court jurisdiction. Murphy Bros., Inc. v. Michetti Pipe Stringing, Inc., 526 U.S.

344 (1999); Foster v. The Mutual Fire, Marine & Inland Ins. Co., 986 F. 2d 48 (3d Cir. 1993).¹

WHEREFORE, Defendant respectfully requests that this action be removed from the Court of Common Pleas of Philadelphia County, Pennsylvania, to the United States District Court for the Eastern District of Pennsylvania.

BRITT, HANKINS, SCHAIBLE & MOUGHAN

BY:



Joseph M. Hankins, Esquire
Attorneys for Defendant
Atty. I. D. NO. : 41136
Christopher J. Urban, Esquire
Attorney I.D. No. 81981

Suite 515
Two Penn Center Plaza
15th Street & JFK Boulevard
Philadelphia, PA 19102
(215) 569-6949

Attorneys for Defendant,
State Farm Mutual Automobile Insurance Company
Incorrectly designated in Plaintiff's Complaint as
"State Farm Insurance Company"

¹ Plaintiff's counsel certified this case as an arbitration matter at the initial filing of the Writ of Summons, which has a jurisdictional limit of \$50,000. (See Exhibit "A-1"). Plaintiff's Complaint, filed later on May 7, 2002 demands in excess of \$1,000,000.00, thus satisfying the jurisdictional requirement for Diversity Jurisdiction. (See Exhibit "A-6").

**IN THE UNITED STATES COURT
FOR THE EASTERN DISTRICT OF PENNSYLVANIA**

JOHN F.X. FENERTY

v.

STATE FARM INSURANCE
COMPANY

:
:
:
:
:
:

Civil Action No:

MEMORANDUM OF LAW

Title 28, U.S.C. § 1441 provides, in part, that,

(a) Any civil action brought in the State Court of which the District Courts of the United States have original jurisdiction, may be removed by the defendant or defendants to the District Court of the United States for the district and the division embracing the place where such action is pending.

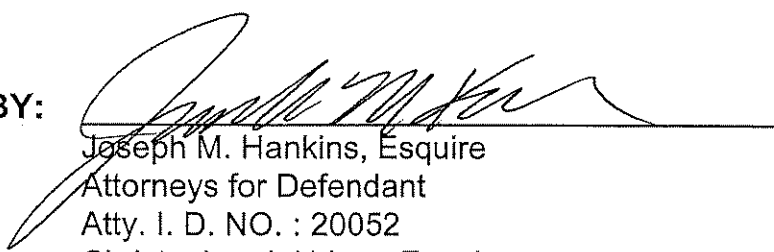
In this case, Plaintiff filed an action against the above-named Defendant in the Philadelphia County Court of Common Pleas, Commonwealth of Pennsylvania. The Complaint states that Plaintiff is a citizen of the Commonwealth of Pennsylvania. State Farm Mutual Automobile Insurance Company ("State Farm") (incorrectly designated in Plaintiff's Complaint as "State Farm Insurance Company") is a corporation duly organized and existing under the laws of the State of Illinois with its principal places of business located in Bloomington, Illinois. State Farm is a citizen of the State of Illinois. The amount in controversy exceeds \$75,000. See Exhibit A.

Under these circumstances, this Court has original jurisdiction over the instant controversy based upon complete diversity of citizenship between the parties, Plaintiff and Defendant, pursuant to 28 U.S.C. § 1332(a)(1).

Therefore, Defendant respectfully requests that the state court action be removed to the federal forum.

BRITT, HANKINS, SCHAIBLE & MOUGHAN

BY:



Joseph M. Hankins, Esquire
Attorneys for Defendant
Atty. I. D. NO. : 20052
Christopher J. Urban, Esquire
Attorney I.D. No. 81981

Suite 515
Two Penn Center Plaza
15th Street & JFK Boulevard
Philadelphia, PA 19102
(215) 569-6949

Attorneys for Defendant,
State Farm Mutual Automobile Insurance Company

IN THE UNITED STATES DISTRICT COURT
FOR THE EASTERN DISTRICT OF PENNSYLVANIA

JOHN F.X. FENERTY

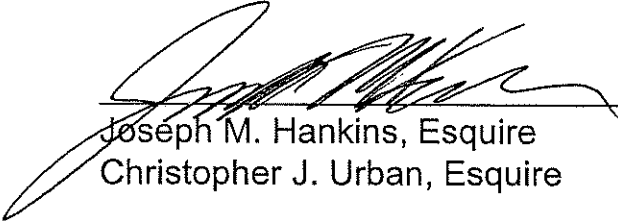
v.

STATE FARM INSURANCE
COMPANY

Civil Action No:

The undersigned certifies that a copy of the foregoing Defendant's Notice of Removal, Memorandum of Law and supporting Affidavit / Exhibits, were forwarded this day, the 24th of May, 2002, to the Court and the below listed counsel by Overnight Mail and First Class Regular U.S. Mail:

Anthony P. Baratta, Esquire
Baratta & Fenerty, Ltd.
2661 Huntingdon Pike
Huntingdon Valley, PA 19006


Joseph M. Hankins, Esquire
Christopher J. Urban, Esquire

Dated: 5/24/02

"EXHIBIT A"

1. Plaintiff's Praecipe to Issue Writ of Summons (2/19/02) and Plaintiff's Writ of Summons (2/19/02)
2. Affidavit of Service (2/24/02)
3. Entry of Appearance, Alan J. Dion, Esquire for Defendant (3/19/02)
4. Praecipe for Rule to File Complaint and Rule to File Complaint (3/19/92)
5. Affidavit of Service of Rule to File Complaint (3/28/02)
6. Plaintiff's Civil Complaint (5/7/02)
7. Withdraw of Appearance, Alan J. Dion Esquire for Defendant (5/22/02)
Entry of Appearance, Joseph M. Hankins, Esquire for Defendant (5/22/02)

EXHIBIT “A”

EXHIBIT “A1”

Court of Common Pleas of Philadelphia County

Trial Division
Civil Cover Sheet

For Prothonotary Use Only (Docket Number)

FEBRUARY 2002

002580

PLAINTIFF'S NAME JOHN F. X. FENERTY		DEFENDANT'S NAME STATE FARM INSURANCE COMPANY	
PLAINTIFF'S ADDRESS 368 Wellington Terrace Jenkintown, PA 19046		DEFENDANT'S ADDRESS 1926 Grant Avenue Phila., PA 19115	
PLAINTIFF'S NAME		DEFENDANT'S NAME	
PLAINTIFF'S ADDRESS		DEFENDANT'S ADDRESS	
TOTAL NUMBER OF PLAINTIFFS 1	TOTAL NUMBER OF DEFENDANTS 1	COMMENCEMENT OF ACTION <input type="checkbox"/> Complaint <input type="checkbox"/> Petition Action <input type="checkbox"/> Notice of Appeal <input checked="" type="checkbox"/> Writ of Summons <input type="checkbox"/> Transfer From Other Jurisdiction	
AMOUNT IN CONTROVERSY <input checked="" type="checkbox"/> \$50,000.00 or less <input type="checkbox"/> More than \$50,000.00	COURT PROGRAMS <input checked="" type="checkbox"/> Arbitration <input type="checkbox"/> Mass Tort <input type="checkbox"/> Commerce <input type="checkbox"/> Settlement <input type="checkbox"/> Jury <input type="checkbox"/> Savings Action <input type="checkbox"/> Minor Court Appeal <input type="checkbox"/> Minors <input type="checkbox"/> Non-Jury <input type="checkbox"/> Petition <input type="checkbox"/> Statutory Appeals <input type="checkbox"/> W/D Survival <input type="checkbox"/> Other: _____		
CASE TYPE AND CODE (See Instructions) 20000 - CONTRACT			
STATUTORY BASIS FOR CAUSE OF ACTION (See Instructions)			
RELATED PENDING CASES (List by Case Caption and Docket Number) ORDER?		IS CASE SUBJECT TO COORDINATION? Yes No <input type="checkbox"/> <input checked="" type="checkbox"/> <input type="checkbox"/> <input type="checkbox"/> <input type="checkbox"/> <input type="checkbox"/>	
TO THE PROTHONOTARY Kindly enter my appearance on behalf of Plaintiff/Petitioner/Appellant John F. X. Fenerty Papers may be served at the address set forth below.			
NAME OF PLAINTIFF/APPELLANT'S ATTORNEY ANTHONY P. BARATTA, ESQUIRE		ADDRESS (See Instructions) 2661 Huntingdon Pike Huntingdon Valley, PA 19006	
PHONE NUMBER (215) 947-4600	FAX NUMBER (215) 947-7875		
SUPREME COURT IDENTIFICATION NO. 11870		E-MAIL ADDRESS	
SIGNATURE <i>Anthony P. Baratta</i>		DATE: February 18, 2002	

0268

Telephone No.: 215-947-4600

Jenkintown, PA 19046

Plaintiff,

Philadelphia, PA 19115

Defendant.

COURT OF COMMON PLEAS

EDUCATION 2002

Term, 2001

002580

No.

20000 - CONTRACT

To the Prothonotary:

måtter.

Attorney for Plaintiff

DATED:

SUMMONS
CITACION

COURT OF COMMON PLEAS

~~FEBRUARY 2002~~
~~002580~~

No.

vs.

LISTED EST. C. DEWADO
 CG. WARE, 100
 1001 MARKET STREET, FIVE
 FIVE PENT. 1001
 TIME 9:30
 OCT 1972
 YOU MUST
 WITH THE ANTI-TRUST
 LISTED TOOK THESE
 COMPLAINTS FLAVISO
 PARA DEFENDERSE

You are notified that the Plaintiff⁽²⁾ John F. X. Fenerty
Usted esta avisado que el demandante⁽²⁾

THIS MATTER WILL BE HEARD BY A BOARD OF ARBITRATORS
AT THE PLACE AND DATE SPECIFIED BUT IF ONE OR
MORE OF THE PARTIES TO THE HEARING, THE MATTER
MAY BE HEARD AT THE PLACE AND DATE BEFORE A
JUDGE AT THE OPTION OF THE DEFENDING PARTY OR
IF THERE IS NO APPEAL TO A TRIAL DE NOVO ON APPEAL
FROM A DECISION ENTERED BY A JUDGE.

Has (have) commenced an action against you.
Ha (han) iniciado una accion en contra suya.

Joseph H. Eilers
~~JOHN H. EILERS~~
Prothonotary
ATTEST

By

FEB 19 2002

L. PHONE
B22 B22TIV

Date _____

0270

(1) Name(s) of Defendant(s)
(2) Name(s) of Plaintiff(s)

EXHIBIT “A2”

RECEIVED
FEB 24 PM 2:33
PROPROTHY
BARATTA & FENERTY, LTD.
By: ANTHONY P. BARATTA, ESQ.
Identification No.: 11800
2661 Huntingdon Pike
Huntingdon Valley, Pennsylvania 19006
Telephone No.: 215-947-4600

Attorney For Plaintiff.

JOHN F. X. FENERTY

vs.

STATE FARM INSURANCE COMPANY

PHILADELPHIA COUNTY
COURT OF COMMON PLEAS
TRIAL DIVISION

February Term, 2002

No. 2580

AFFIDAVIT OF SERVICE

COMMONWEALTH OF PENNSYLVANIA:

SS

COUNTY OF PHILADELPHIA:

I, IGOR GOYKHMAN, a competent adult, being duly sworn according to law, depose and state that at 2:15 P.M. on the 19th day of February, 2002, I personally handed to Violet McClockery, Receptionist, on behalf of the Defendant, State Farm Insurance Company at 1926 Grant Avenue, Philadelphia, PA 19115, a true and correct copy of the Writ of Summon, issued in the matter of John F. X. Fenerty v. State Farm Insurance Company, C.C.P. Phila., February Term, 2002; No. 002580.

Igor Goykhman
IGOR GOYKHMAN

SWORN TO AND SUBSCRIBED

BEFORE ME THIS 19th DAY

OF February, 2002.

Helen V. Pusicz

NOTARY PUBLIC

NOTARIAL SEAL
HELEN V. PUSICZ, Notary Public
Huntingdon Valley, Montgomery County
My Commission Expires Nov. 8, 2003

EXHIBIT “A3”

I hereby certify that I have served
a copy of this paper upon all other
parties or their attorneys by:

- ☒ regular mail
☐ certified mail
☐ other

By: _____

PRESENTED FOR REVIEW
02 MAR 19 PM 3:35
PRO PROTHY

DION, ROSENAU & SMITH
BY: ALAN DION, ESQUIRE
IDENTIFICATION NO. 16034
SUITE 900, 8 PENN CENTER
1628 JFK BOULEVARD
PHILADELPHIA, PA 19103
(215) 561-7000

Attorney for Defendant

FILED
PRO PROTHY
MAR 20 2002
N. HINTON

JOHN F. X. FENERTY

: COURT OF COMMON PLEAS
: OF PHILADELPHIA COUNTY

VS.

: FEBRUARY TERM, 2002

STATE FARM INSURANCE COMPANY

: No. 2580

\$102

**ENTRY OF APPEARANCE
AND DEMAND FOR JURY TRIAL**

TO THE PROTHONOTARY:

Kindly enter my appearance as attorney on behalf of Defendant, State Farm
Insurance Company, in reference to the above-captioned case.

TRIAL BY JURY OF (12)
TWELVE DEMANDED.

ALAN DION, ESQUIRE

DION, ROSENAU & SMITH

BY: _____

ALAN DION, ESQUIRE
ATTORNEY FOR DEFENDANT

Rec'd 4/9/02 \$102.00 Auth'd
Date 3/19/02 Time 15:36 CLK#
0001 PROTHONOTARY'S OFFICE

EXHIBIT “A4”

I hereby certify that I have served
a copy of this paper upon all other
parties or their attorneys.

- ☒ regular mail
☒ certified mail
☐ other _____

By: _____

Attorney for Defendant

DION, ROSENAU & SMITH
BY: ALAN DION, ESQUIRE
IDENTIFICATION NO. 16034
SUITE 900, 8 PENN CENTER
1628 JFK BOULEVARD
PHILADELPHIA, PA 19103
(215) 561-7000

JOHN F. X. FENERTY

VS.

: COURT OF COMMON PLEAS
: OF PHILADELPHIA COUNTY

: FEBRUARY TERM, 2002

STATE FARM INSURANCE COMPANY

: No. 2580

PRAECIPE TO FILE COMPLAINT

TO THE PROTHONOTARY:

Kindly enter a Rule upon Plaintiff to file a Complaint within twenty (20) days
hereof or suffer the entry of a Judgment of Non-Pros.

DION, ROSENAU & SMITH

BY: _____

ALAN DION, ESQUIRE
ATTORNEY FOR DEFENDANT

RULE TO FILE COMPLAINT

AND NOW, on this _____ day of _____, 2002, a Rule is hereby granted upon
Plaintiff to file a Complaint herein within twenty (20) days after service hereof or suffer
the entry of a Judgment of Non-Pros.

PROTHONOTARY

EXHIBIT “A5”

I hereby certify that I have served
a copy of this paper upon all other
parties or their attorneys by:

☒ regular mail
☐ certified mail
☐ other _____

By: _____

DION, ROSENAU & SMITH
BY: ALAN DION, ESQUIRE
IDENTIFICATION NO. 16034
SUITE 900, 8 PENN CENTER
1628 JFK BOULEVARD
PHILADELPHIA, PA 19103
(215) 561-7000

Attorney for Defendant

JOHN F. X. FENERTY

VS.

: COURT OF COMMON PLEAS
: OF PHILADELPHIA COUNTY

: FEBRUARY TERM, 2002

STATE FARM INSURANCE COMPANY

: No. 2580

CERTIFICATION OF SERVICE

Alan Dion, Esquire, being duly sworn according to law, deposes and says that he is the attorney for Defendant, State Farm Insurance Company, within-named and hereby certifies that service of the Defendant's Rule to File Complaint was made on plaintiff's attorney, Anthony P. Baratta, Esquire by Certified Mail, Return Receipt Requested with a cover letter dated March 19, 2002. A true and correct copy of said letter is attached hereto as Exhibit "A" and made a part hereof.

This statement is made subject to the penalties of 18 Pa. C.S. Section 4904 relating to unsworn falsification to authorities.

DION, ROSENAU & SMITH

BY: _____

ALAN DION, ESQUIRE
ATTORNEY FOR DEFENDANT

PRESENTED FOR REVIEW
02 MAR 28 PM 4:02
APC PROTON

LAW OFFICES
DION, ROSENAU & SMITH
Suite 900
8 Penn Center
1628 John F. Kennedy Boulevard
PHILADELPHIA, PENNSYLVANIA 19103

(215) 561-7000
FAX: (215) 665-8845

SUBURBAN OFFICE
3 PENN COURT
325 SWEDE STREET
NORRISTOWN, PA 19401
(610) 275-8600

Alan Dion, Esquire
e-mail: adion@dionrosenau.com

March 19, 2002

PLEASE REFER TO FILE NO.
23852

Anthony P. Baratta, Esquire
2661 Huntingdon Pike
Huntingdon Valley, PA 19006

RE: John X. Fenerty vs. State Farm
CCP, February Term, 2002, No. 2580

Dear Mr. Baratta:

Enclosed please find a time-stamped copy Defendant's Rule to File a Complaint in reference to the above-captioned case. Please note that a Complaint must be filed within twenty (20) days or a Judgment of Non Pros may be entered.

Very truly yours,

ALAN DION

AD/mr
enclosure

CERTIFIED MAIL, RETURN RECEIPT REQUESTED

EXHIBIT "A"

U.S. Postal Service
CERTIFIED MAIL RECEIPT
 (Domestic Mail Only; No Insurance Coverage Provided)

Postage \$ 34
 Certified Fee 210
 Return Receipt Fee (Endorsement Required) 150
 Restricted Delivery Fee (Endorsement Required)
 Total Postage & Fees \$ 394



Recipient's Name (Please Print Clearly) (to be completed by mailer)

Anthony P. Baratta, Esq.

Street, Apt. No., or PO Box No.

2661 Huntingdon Pike

City, State, ZIP+4

Huntingdon Valley, PA 19006

PS Form 3800, February 2000

See Reverse for Instructions

SENDER: COMPLETE THIS SECTION

- Complete Items 1, 2, and 3. Also complete item 4 if Restricted Delivery is desired.
- Print your name and address on the reverse so that we can return the card to you.
- Attach this card to the back of the mailpiece, or on the front if space permits.

1. Article Addressed to:

Anthony P. Baratta, Esq.
2661 Huntingdon Pike
Huntingdon Valley, PA
19006

COMPLETE THIS SECTION ON DELIVERY

A. Received by (Please Print Clearly) James Deleso B. Date of Delivery MAR 22 2002

C. Signature James Deleso ☐ Agent ☐ Addressee

D. Is delivery address different from item 1? ☐ Yes ☐ No
 If YES, enter delivery address below:

3. Service Type
☒ Certified Mail ☐ Express Mail
☐ Registered ☐ Return Receipt for Merchandise
☐ Insured Mail ☐ C.O.D.

4. Restricted Delivery? (Extra Fee) ☐ Yes

2. Article Number (Copy from service label)

7000 0600 0027 7517 4644

PS Form 3811, July 1999

Domestic Return Receipt

102595-00-M-0952

EXHIBIT “A6”

THIS IS AN ARBITRATION CASE.
ASSESSMENT OF DAMAGES HEARING
IS REQUIRED.

HARATTA & FENERTY, LTD.
BY: ANTHONY P. HARATTA, ESQ.
Atty. I.D. No. 11870
2661 Huntingdon Pike
Huntingdon Valley, PA 19006
(215) 947-4600

Attorney for Plaintiff

JOHN F.X. FENERTY

PHILADELPHIA COUNTY
COURT OF COMMON PLEAS
TRIAL DIVISION

v.

FEBRUARY TERM, 2002

STATE FARM INSURANCE COMPANY

NO. 2580

CIVIL ACTION

NOTICE

You have been sued in court. If you wish to defend against the claims set forth in the following pages, you must take action within twenty (20) days after this Complaint and notice are served, by entering a written appearance personally or by attorney and filing in writing with the court your defenses or objections to the claims set forth against you. You are warned that if you fail to do so the case may proceed without you and a judgment may be entered against you by the court without further notice for any money claims in the complaint or for any other claim or relief requested by the plaintiff. You may lose money or property or other rights important to you.

YOU SHOULD TAKE THIS PAPER TO YOUR LAWYER AT ONCE. IF YOU DO NOT HAVE A LAWYER OR CANNOT AFFORD ONE, GO TO OR TELEPHONE THE OFFICE SET FORTH BELOW TO FIND OUT WHERE YOU CAN GET LEGAL HELP.

AVISO

Le han demandado a usted en la corte. Si usted quiere defenderse de estas demandas expuestas en las paginas siguientes, usted tiene veinte (20) dias de plazo al partir de la fecha de la demanda y la notificacion. Hace falta presentar una comparencia escrita o en persona o con un abogado y entregar a la corte en forma escrita sus defensas o sus objeciones a las demandas en contra de su persona. Sea avisado que si usted no se defiende, la corte tomara medidas y pueda continuar la demanda en contra suya a sin previo aviso o notificacion. Ademas, la corte puede decidir a favor del demandante y require que usted cumpla con todas las previsiones de esta demanda. Usted puede perder dinero o sus propiedades u otros derechos importantes para usted.

LLEVE ESTA DEMANDA A UN ABOGADO INMEDIATAMENTE. SI NO TIENE ABOGADO O SI NO TIENE EL DINERO SUFICIENTE DE PAGAR TAL SERVICIO, VAYA EN PERSONA O LLAME POR TELEFONO A LA OFICINA CUYA DIRECCION SE ENCUENTRA ESCRITA ABAJO PARA AVERIGUAR DONDE SE PUEDE CONSEGUIR ASISTENCIA LEGAL.

LAWYER REFERENCE SERVICE
One Reading Center
Philadelphia, PA 19107
(215) 238-6300

THIS IS AN ARBITRATION CASE.
ASSESSMENT OF DAMAGES HEARING
IS REQUIRED.

BARATTA & FENERTY, LTD.
BY: ANTHONY P. BARATTA, ESQ.
Atty. I.D. No. 11870
2661 Huntingdon Pike
Huntingdon Valley, PA 19006
(215) 947-4600

Attorney for Plaintiff

JOHN F.X. FENERTY
368 Wellington Terrace
Jenkintown, PA 19046

: PHILADELPHIA COUNTY
: COURT OF COMMON PLEAS
: TRIAL DIVISION

V.

: FEBRUARY TERM, 2002

STATE FARM INSURANCE COMPANY
1926 Grant Avenue
Philadelphia, PA 19115

: NO. 2580
:
:

CIVIL ACTION COMPLAINT

COUNT I: CONTRACT

1. Plaintiff John F.X. Fenerty, Sr., is an individual and citizen of the Commonwealth of Pennsylvania, resident therein at 368 Wellington Terrace, County of Montgomery,
2. Defendant State Farm Mutual Automobile Insurance Company is a business entity organized for the purpose of selling to individuals and other entities, automobile insurance which is in compliance with the Pennsylvania Motor Vehicle Financial Responsibility Law, the defendant is present in and regularly conducts business throughout the Commonwealth, and specifically in the City and County of Philadelphia, at, inter alia, 1926 Grant Avenue.
3. At all times relevant hereto, and for 24 years before, Plaintiff John F.X. Fenerty, Sr., was an insured of the Defendant State Farm Mutual Automobile Insurance Company, under policies of insurance bearing Policy Number 828 0908-F17-38N, which provided, inter alia, primary insured coverage benefits including benefits for 80% of the actual loss of gross income arising out of a motor vehicle accident, excluding the first five working days following the motor vehicle accident. The benefit is subject to a \$2,500.00 per month cap, with a \$50,000.00 total maximum benefit.

4. On February 19, 1998, Plaintiff was involved in an appropriately reported motor vehicle accident, and as a direct result thereof, suffered an actual loss of gross income measured within the aforesaid terms of the policy at \$13,511.00.

5. Plaintiff has filed an Application for the benefit, and has complied with all reasonable requests for supporting financial information in an effort to enable the Defendant Insurance Company to know the truth of the loss, and to calculate the benefit to which Plaintiff is entitled.

6. Despite repeated requests therefore, the Defendant Insurance Company has virtually failed and refused to honor Plaintiff's claim.

WHEREFORE, Plaintiff claims of the Defendant the sum of \$13,511.00, together with interest, costs and counsel fees.

COUNT 2: FRAUD

7. The allegations of Count 1 are incorporated herein by reference, as if fully set forth herein.

8. Plaintiff is informed, believes and therefore avers that the policy of insurance sold and issued by the Defendant State Farm Mutual Automobile Insurance Company to the Plaintiff for all the years of their insurer-insured relationship, was never intended to cover the loss which was mandated by the Pennsylvania Motor Vehicle Financial Responsibility Law, but which was so sold to Plaintiff and other motorists and covered persons similarly situated.

9. Plaintiff is informed, believes and therefore avers that the Defendant State Farm Mutual Automobile Insurance Company has no underwriting or processing manuals or procedures for claims administration and for determination of Plaintiff's claim and similar claims of other motorists and covered persons similarly situated.

10. Plaintiff is informed, believes and therefore avers that the Defendant State Farm Mutual Automobile Insurance Company, without telling the insured, has engaged in a deliberate practice of issuing and taking payment for insurance coverage which is devoid of insuring and claims standards, and which the Defendant Insurance Company therefore knows will never give rise to a payable claim, and has deliberately withheld that information, and misled the insured and other motorists and covered persons similarly situated.

11. Plaintiff has relied on the knowledge, expertise, and proffered integrity of the Defendant State Farm Mutual Automobile Insurance Company to provide insurance which is in compliance with the Pennsylvania Motor

Vehicle Financial Responsibility Law, and is informed, believes and therefore avers that have other motorists and covered persons similarly situated, have likewise relied.

WHEREFORE, Plaintiff claims of the Defendant the sum of \$13,511.00, together with interest, costs and counsel fees, and punitive damages in the amount of \$1,000,000.00.

BARATTA & FENERTY, LTD.

BY: Anthony P. Baratta
ANTHONY P. BARATTA, ESQ.
Attorney for Plaintiff

Dated: 5/2/02

VERIFICATION

JOHN F. X. FENERTY, hereby states that the facts as set forth in the foregoing Complaint are true and correct to the best of his knowledge, information and belief. Further, he understands that false statements therein made are subject to the penalties provided under 18 Pa. C.S. Section 4904, relating to unsworn falsification to authorities.

A handwritten signature in dark ink, appearing to read 'John F. X. Fenerty', is written over a horizontal line.

JOHN F. X. FENERTY

DATE: May 1, 2002

EXHIBIT “A7”

BRITT, HANKINS, SCHAIBLE & MOUGHAN

BY: Joseph M. Hankins, Esquire
Attorney I.D. No. 20052
Two Penn Center Plaza
Suite 515
Philadelphia, PA 19102
(215) 569-6904

RECEIVED
02 MAY 22 AM 10:58
PRO PROTHY
Attorneys for Defendant

JOHN F.X. FENERTY

V.

STATE FARM MUTUAL
AUTOMOBILE INSURANCE
COMPANY

COURT OF COMMON PLEAS
PHILADELPHIA COUNTY

FEBRUARY TERM, 2002
NO. 2580

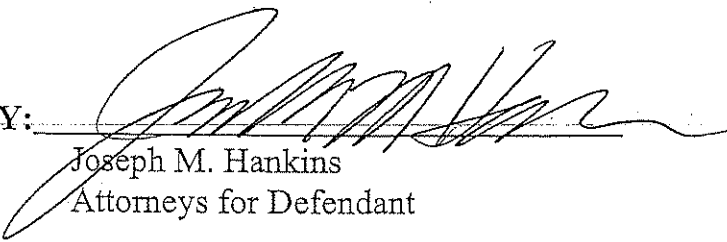
ENTRY OF APPEARANCE

TO THE PROTHONOTARY:

Kindly enter our appearance on behalf of defendant, STATE FARM MUTUAL
AUTOMOBILE INSURANCE COMPANY, incorrectly named herein as STATE FARM
INSURANCE COMPANY, in the above captioned matter.

BRITT, HANKINS, SCHAIBLE & MOUGHAN

BY:


Joseph M. Hankins
Attorneys for Defendant

Dated: 5/21/02

JURY TRIAL DEMANDED

RECEIVED

02 MAY 22 AM 10:58

PRO PROTHY

DION, ROSENAU & SMITH
BY: ALAN DION, ESQUIRE
IDENTIFICATION NO. 16034
SUITE 900, 8 PENN CENTER
1628 JFK BOULEVARD
PHILADELPHIA, PA 19103
(215) 561-7000

Attorney for Defendant

JOHN F. X. FENERTY

VS.

: COURT OF COMMON PLEAS
: OF PHILADELPHIA COUNTY

: FEBRUARY TERM, 2002

STATE FARM INSURANCE COMPANY

: No. 2580

WITHDRAWAL OF APPEARANCE

TO THE PROTHONOTARY:

Kindly withdraw the appearance of Alan Dion, Esquire as attorney for Defendant,
State Farm Insurance Company, in reference to the above-captioned case.

DION, ROSENAU & SMITH

BY: 

ALAN DION, ESQUIRE